

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

In re:

Case No.: 3:09-bk-05204-JAF

CAPT, LLC,

Chapter 7

Debtor.

_____/

DOREEN ABBOTT, Chapter 7 Trustee,

Adv. No.: 3:10-ap-00322-JAF

Plaintiff,

v.

N.W. FLORIDA MATTRESS EXPRESS CORPORATION, a Florida corporation d/b/a Florida Auction Services, **MATTRESS EXPRESS, INC.**, a foreign corporation d/b/a Florida Auction Services, **TUC-ME-IN MATTRESS CO OF NORTHWEST FLORIDA INC.**, a Florida corporation, **TUC-ME-IN MATTRESS CO., INC.**, a Florida corporation, **JOHN P. CABALLERO**, an individual, **MARIA A. CABALLERO**, an individual, and **MARIA A. TESTA**, an individual,

Defendants.

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FINAL JUDGMENT

This matter is before the Court upon the Motion of Plaintiff, Doreen Abbott, Chapter 7 Trustee, for a Final Default Judgment. Having granted Plaintiff's Motion for Entry of Final Default Judgment, it is

ORDERED AND ADJUDGED:

1. With respect to Count II of the Adversary Complaint (the "**Complaint**"), final judgment is hereby entered in favor of Plaintiff, Doreen Abbott, as Chapter 7 Trustee of the

bankruptcy estate of Capt, LLC, whose business address is P.O. Box 56257, Jacksonville, Florida 32241-6257, and against Defendants, N.W. Florida Mattress Express Corporation, a Florida corporation d/b/a Florida Auction Services whose last known address is 43 N. Navy Blvd., Pensacola, Florida 32504; Mattress Express, Inc., a Florida corporation d/b/a Florida Auction Services whose last known address is 43 N. Navy Blvd., Pensacola, Florida 32504; Tuc-Me-In Mattress Co of Northwest Florida Inc., a Florida corporation whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; Tuc-Me-In Mattress Co., Inc., a Florida corporation whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; John P. Caballero, an individual whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; Maria A. Caballero, an individual whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; and Maria A. Testa, an individual whose last known address is 1440 Fairchild St., Pensacola, Florida 32504, jointly and severally, for treble damages in the amount of \$224,439.48, attorneys' fees in the amount of \$4,410.00, and attorneys' costs in the amount of \$221.05, for the total sum of \$229,070.53, which sum shall accumulate interest at the legal rate of 0.26 % per annum from the date of this judgment, for all of which let execution issue.

2. With respect to Count III of the Complaint, the Court finds that Defendants, N.W. Florida Mattress Express Corporation, a Florida corporation d/b/a Florida Auction Services, Mattress Express, Inc., a Florida corporation d/b/a Florida Auction Services, and John Caballero, have violated Fla. Stat. § 468.389 and that Doreen Abbott, Chapter 7 Trustee, is entitled to seek payment from Florida's Auctioneer Recovery Fund in the amount of \$98,014.62, which represents Capt, LLC's actual loss as a result of Defendants, N.W. Florida Mattress Express Corporation, a Florida corporation d/b/a Florida Auction Services, Mattress Express, Inc., a

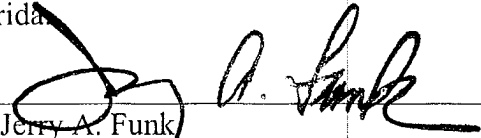
Florida corporation d/b/a Florida Auction Services, and John Caballero's violation of Fla. Stat. § 468.389.

3. With respect to Counts I and IV of the Complaint, final judgment is hereby entered in favor of Plaintiff, Doreen Abbott, as Chapter 7 Trustee of the bankruptcy estate of Capt, LLC, whose business address is P.O. Box 56257, Jacksonville, Florida 32241-6257, and against Defendants, N.W. Florida Mattress Express Corporation, a Florida corporation d/b/a Florida Auction Services whose last known address is 43 N. Navy Blvd., Pensacola, Florida 32504; Mattress Express, Inc., a Florida corporation d/b/a Florida Auction Services whose last known address is 43 N. Navy Blvd., Pensacola, Florida 32504; Tuc-Me-In Mattress Co of Northwest Florida Inc., a Florida corporation whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; Tuc-Me-In Mattress Co., Inc., a Florida corporation whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; John P. Caballero, an individual whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; Maria A. Caballero, an individual whose last known address is 1440 Fairchild St., Pensacola, Florida 32504; and Maria A. Testa, an individual whose last known address is 1440 Fairchild St., Pensacola, Florida 32504, jointly and severally, for additional damages to those damages awarded under Count II of the Complaint in the amount of \$98,014.62, which sum shall accumulate interest at the legal rate of 0.26 % per annum from the date of this judgment, for all of which let execution issue.

4. Plaintiff, Doreen Abbott, as Chapter 7 Trustee of the bankruptcy estate of Capt, LLC, shall also be entitled to recover from the Defendants any and all personal property of Capt, LLC that was not sold at the auction of Capt, LLC's property (the "**Property**"), but which the Defendants converted and retained possession of, or the value of the Property, for the benefit of the creditors of the bankruptcy estate, for all of which let execution issue.

5. This Court retains jurisdiction of this action to enter further orders that are proper, including, but not limited to, orders authorizing the issuance of writs of replevin, writs of execution, writs of garnishment, and other post-judgment collection remedies.

Dated: August 30, 2010 in Jacksonville, Florida


Jerry A. Funk
United States Bankruptcy Judge

Copies furnished to:

N.W. Florida Mattress Express Corporation
d/b/a Florida Auction Services
c/o its Registered Agent, John P. Caballero
43 N. Navy Blvd.
Pensacola, FL 32504

Mattress Express, Inc.
d/b/a Florida Auction Services
c/o its Registered Agent, John P. Caballero
43 N. Navy Blvd.
Pensacola, FL 32504

Tuc-Me-In Mattress Co of Northwest Florida
Inc., c/o its Registered Agent, Maria Testa
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Pensacola, FL 32504

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50 North Laura Street, Suite 2500
Jacksonville, FL 32202

Doreen Abbott, Chapter 7 Trustee
P.O. Box 56257
Jacksonville, FL 32241-6257

I certify the foregoing to be true
and correct copy of the original.
CLERK OF COURT
U. S. BANKRUPTCY COURT

By: John J. [Signature]

Dated: Sept 1, 2010

RECORDED IN THE US BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA,
JACKSONVILLE DIVISION
F.B. VOL. 54, NO. 7370